

U.S. Patent Application Serial No. 10/087,449

REMARKS

The following remarks address rejections and comments made in the Office Action mailed August 3, 2009. Claims 2-9, 11, 14-17, and 21-25 are currently amended. No claims are currently cancelled. Claims 1-25 are currently pending.

In light of the foregoing amendments and the following remarks, the applicant respectfully requests reconsideration of the present case in view of the following remarks.

A, Miscellaneous Matters

The Office Action asserts the terms "configured" in claims 3 and 11 and "wherein" in claims 2-8 and 10, 11, 14-17, and 21-25 do not further limit the claims. The applicant respectfully traverses this assertion and does not concede any characterizations of the pending application made in the Office Action. As recited in the pending claims, these terms introduced further claim limitations. In order to expedite prosecution of this application, however, the applicant has amended these claims to remove the terms "configured" and "wherein." The applicant has also amended claim 9 to correct miscellaneous antecedent basis issues. None of these amendments narrow the scope of the claims in any way.

Claim 10 did not recite either "configured" or "wherein" as stated in the Office Action and was not amended.

B. Rejection of Claims 1, 8, 12, and 19 under 35 U.S.C. § 103

Claims 1, 8, 12, and 19 stand rejected as being obvious over Estes (US 2003/0114836) in view of Gargano (US 5,814,015). The applicant respectfully traverses this rejection and does not concede any characterizations of the pending application or cited references set forth in the Office Action.

1. Claim 1

Claim 1 recites "generating a table on a user interface displayed by the computer the computer having a computer peripheral, the table containing a row, the row having a plurality of cells" and "entering an operating parameter into at least one of the cells in the table, the operating parameter being entered directly into the at least one of the cells through the computer peripheral."

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In support of this rejection, page 4 of the Office Action cites Figure 3A and element 300 from Estes as teaching a table on an interface. Figure 3A is not a table on an interface. It is not even a table generated or otherwise stored by the infusion device 100, RF programmer 110, or computer 132. Estes actually teaches that Figure 3A is merely an illustration of fixed and variable settings for a bolus estimator. ¶¶ [0018] and [0054]. It illustrates whether a particular type of data is fixed or variable. It does not illustrate how data is entered, displayed, or even organized. Estes goes on to explicitly teach that Figures 3B-3D illustrate a graphical programming interface for setting profiles. ¶ [0056]. The graphical interface is “convenient and efficient. Id. A user can simply grab and move an indicator along the x-axis of the graphical programming interface. Id.

Estes makes an express distinction between Figure 3A, which merely illustrates types of data, and Figures 3B-3D, which illustrate a graphical interface displayed on the infusion device 100. In addition to the gaps in teaching noted in the Office Action, Estes also fails to disclose (i) generating a table; (ii) generating a table on a user interface; (iii) entering an operating parameter into a cell of the table; and (iv) entering the operating parameter directly into the cell of the table.

Gargano similarly fails to disclose any type of table. Rather, it discloses that data is entered by selecting a value from a pull-down menu or selecting a value already entered in a numerical field and then scrolling to a different value. Col. 4, lines 31-42.

Therefore, no combination of Estes and Gargano can result in the claimed combination of elements. For at least these reason, the applicant respectfully submits that claim 1 is patentably distinct from the cited references and requests withdrawal of the pending rejection.

2. Claim 8

Claim 8 recites, “each data set in the plurality of data sets contains the same type of operating parameters and at least two of the data sets contain different values for the same type of operating parameter; storing the plurality of data sets in memory [of the pump]; selecting one of the plurality of data sets; and running a delivery program wherein the delivery program executes the operating parameters.”

The Office Action cited ¶ [0008] and Figure 6 from Estes as teaching a plurality of data sets for different events such as SUSPEND, BOLUS, and BASAL. The Office Action also cited col. 11, lines 40-49 and col. 14, lines 33-36 as teaching that each data set in the plurality of data

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sets contains the same type of operating parameters and at least two of the data sets contain different values for the same type of operating parameter.

One skilled in the art would not look to combine these teachings into the claimed device at least because each of these events have different functions and require different sets of data. Even if these cited teachings were combined, the combination would result in a device that would not operate for its intended purpose. For example, data controlling a suspend event typically results in stopping delivery of a drug or other fluid, at least temporarily. If the data for a suspend event included the same data as a bolus event or basal event, initiating a suspend event might result in delivery drug instead of stopping delivery of the drug. In another example, including data for bolus event with data for a basal event might result in the scheduled basal delivery being cut short.

Therefore, no combination of Estes and Gargano can result in the claimed combination of elements. For at least these reason, the applicant respectfully submits that claim 8 is patentably distinct from the cited references and requests withdrawal of the pending rejection.

3. Claims 12 and 19

Claim 12 recites, “[S]electing the user-defined identifying name thereby assigning the set of operating parameters identified by the user-defined identifying name to the delivery program.” Claim 19 similarly recites, “[A] processor . . . programmed to assign the set of operating parameters to the delivery program upon selection of the user-defined identifying name.” The term “user-defined” must be interpreted consistent with the specification. See M.P.E.P. § 2111. In this case, the specification teaches a user-defined field is not limited to a particular type of information such as a patient or drug name. Rather it is customizable with whatever characters a user chooses to use. As a non-limiting example, the pending specification discusses user entry of a custom name for a delivery program. Page 76, lines 14-22. Such user-defined identifying names allow a user to assign names that are meaningful to them.

Both Estes and Gargano fail to disclose or teach either (i) selecting a user defined-name; or (ii) assigning a set of operating parameters in response to selecting a user-defined name.

In support of this rejection, pages 8 and 10 of the Office Action states Estes fails to disclose selection of a uniquely identifying name. Initially, the applicant notes that a uniquely identifying name as used in the cited references is different than the recited user-defined identifying name as recited in the claims and as discussed above in more detail. In addition to

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not disclosing a uniquely identifying name, Estes also fails to disclose a user-defined identifying name.

Gargano also fails to disclose or otherwise teach a user-defined identifying name as recited in the claims. Pages 8 and 10 of the Office Action state Gargano discloses running a delivery program wherein the delivery program executes the operating parameters identified by a uniquely identifying name in the form of a drug name and cites col. 6, lines 19-30 in support of this statement. However, the Office Action does not explain how the identifying name for the drug is user-definable. It does not even make a conclusory statement that the identifying name is user defined. Indeed, a drug name is not user-defined. A drug name is a name given to the drug by someone other than the person programming or operating the pump.

Furthermore, and assuming a drug name is user-defined for the sake or argument, the passage cited from Gargano in support of this rejection does not disclose or teach assigning a set of operating parameters in response to selecting a drug name. Rather, it teaches that a central control unit 612 controls operation of multiple pump modules such as pump modules 616A and 616B. Col 5, lines 47-53; col. 6, lines 6-8. When setting up a pump module, the user enters the drug name into the control unit 612 (col. 5, lines 50-53; col. 6, lines 6-8) as a safeguard against infusing the wrong drug when adding a new pump module (col. 6, lines 15-18). The pump module 616A or 616B then displays the drug name on its LCD screen 624 and the user must then view the drug name and verify it is accurate to enable the pump. Col. 6, lines 19-30. This is a safety precaution because different drug modules can delivery different drugs. See, e.g., Col. 6, lines 8-14.

The cited passage from Gargano teaches entering a drug name as a safety feature to verify the correct pump module is being programmed. It does not teach assigning a set of operating parameters to a pump module.

Therefore, no combination of Estes and Gargano can result in the claimed combination of elements. For at least these reason, the applicant respectfully submits that claims 9 and 12 are patentably distinct from the cited references and requests withdrawal of the pending rejection.

C. Rejection of Claims 2-7, 9-11, 13-18, and 20-25 under 35 U.S.C. § 103

Claims 2-7, 9-11, 13-18, and 20-25 stand rejected as being obvious over Estes in view of Gargano in further view of Levin (US 2003/0011646). The applicant respectfully traverses this

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rejection and does not concede any characterizations of the pending application or cited references set forth in the Office Action.

1. Claims 2-7

Claims 2-7 depend from claim 1 and include all of the elements recited in claim 1, and thus also recite “generating a table on a user interface displayed by the computer the computer having a computer peripheral, the table containing a row, the row having a plurality of cells” and “entering an operating parameter into at least one of the cells in the table, the operating parameter being entered directly into the at least one of the cells through the computer peripheral.” As discussed above, Estes and Gargano fail to disclose or teach entering an operating table into a cell of the table. They also fail to disclose downloading the operating parameter entered in the cell into the pump.

Levine also fails to disclose or teach these elements. Rather, it teaches an entry box “in which the patient enters information about *other* medications.” ¶ [0147] (emphasis added). The patient enters historical information, not operating parameters that will be downloaded into the pump. The healthcare provider then can use the historical information to prevent adverse drug interactions. See ¶¶ [00147] and [[0148].

Therefore, no combination of Estes, Gargano, and Levine can result in the claimed combination of elements. For at least these reason, the applicant respectfully submits that claims 2-7 are patentably distinct from the cited references and requests withdrawal of the pending rejection.

2. Claims 9-11

Claims 9-11 recite, “a processor in data communication with the data port and the data entry device, the processor programmed to (a) generate a table on a user interface, the table containing a row, the row having a plurality of cells, each cell in the row relating to a different operating parameter for the delivery program; (b) receive operating parameters directly from the data entry device and display the data in one or more of the cells; and (c) download the operating parameters displayed in the cells to the infusion pump.”

As discussed above, Estes, Gargano, and Levine all fail to disclose or teach receiving operating parameters and displaying the operating parameters in one or more cells. These references also fail to disclose or teach downloading the operating parameters displayed in the cells.

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Therefore, no combination of Estes, Gargano, and Levine can result in the claimed combination of elements. For at least these reason, the applicant respectfully submits that claims 9-11 are patentably distinct from the cited references and requests withdrawal of the pending rejection.

3. Claims 13-25

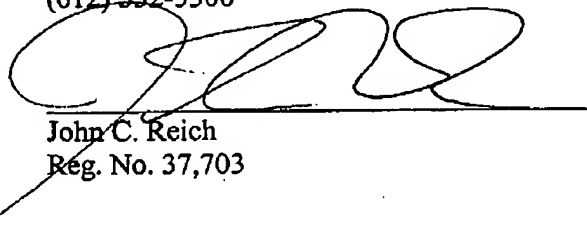
Pages 22-25 of the Office Action explain the rejection of claims 13-25. The explanation discusses only Estes. It provides no explanation of how Gargano and Levine apply to the claims and thus does not set forth a prima facie case of obviousness. Therefore, the applicants respectfully request withdrawal of the pending rejection of claims 13-25.

CONCLUSION

In view of the above amendments and remarks, the applicant respectfully requests withdrawal of the pending rejections and issuance of a Notice of Allowance. The applicant notes that there may be reasons that the pending claims are patentably distinct from the cited reference in addition to those set forth herein and reserves the right to raise argument in support of patentability in the future. If the examiner believes a telephone conference would advance the prosecution of this application, the examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

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Date: February 3, 2010
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